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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,070	12/31/2001	Richard W. Trevino	11045.00	9205

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DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER
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RICHMAN, GLENN E.

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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12/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/039,070	<b>Applicant(s)</b> TREVINO ET AL.	
	<b>Examiner</b> Glenn Richman	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/31/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 14-23 is withdrawn in view of the newly discovered reference(s) to Watterson. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pasero.

Pasero discloses a support frame having a base (20) a motor frame attached to the support frame along a first pivot line (fig. 1); a base frame attached to the motor frame (fig. 1), the base frame having a roller (16) mounted on an axle (48), the axle including a threaded recess being seated in at least one bushing (68).

Pasero does not disclose the bushing forming an axle extension, however it would have been obvious for Pasero to use an axle extension, as the mechanism works in the same way, adjusting the tension with a threaded fastener extending into the axle, and as no unexpected results are achieved.

Pasero further discloses a threaded fastener extending through the bushing into the threaded recess of the axle (fig. 3), the threaded fastener being adapted to adjust

the position of the roller by engaging with the threaded recess of the axle (col. 4, lines 12 – et seq.), a support bed (24), a belt extending over the support bed and adapted to be driven by the roller (18); wherein the axle extension is seated in a second bushing (84, the shaft acting as an axle extension, and the nut the equivalent of a bushing), and the belt urges the axle extension into the second bushing (fig. 3).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pasero in view of Watterson.

Pasero discloses the limitations of claim 14 as discussed above, except “wherein the base frame pivots from an unfolded configuration to a folded configuration about the first pivot line.”

Watterson discloses a base frame that pivots from an unfolded configuration to a folded configuration about a pivot line of a motor frame (18,20, pivot line 52).

It would have been obvious for Pasero’s treadmill to fold in the configuration of Watterson, as it is well known as taught by Watterson to have a treadmill fold along a pivot axis of a motor frame, for providing a stability in the folding process.

Claims 15, 16, 18-21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watterson in view of Pasero.

Watterson discloses a support frame having a base 65, a motor frame (292,16,18,264) attached to the support frame along a first pivot line 288, a base frame attached to the motor frame 44,46.

Watterson does not disclose the base frame having a roller mounted on an axle. Pasero discloses a base frame having a roller mounted on an axle 16,48.

It would have been obvious to use Pasero's base frame having a roller mounted on an axle with Watterson's treadmill, as it is well known as taught by Pasero, for having a treadmill roller to rotate.

Pasero further discloses the axle including a threaded recess being seated in at least one bushing, (ii) a threaded fastener extending through the bushing into the threaded recess of the axle, the threaded fastener being adapted to adjust the position of the roller by engaging with the threaded recess of the axle, a support bed, and a belt extending over the support bed and adapted to be driven by the roller (as discussed above).

Watterson further discloses the base frame is pivotally attached to the motor frame along a second pivot line spaced from the first pivot line (52), the base frame pivots from an unfolded configuration to a folded configuration about the second pivot line (fig. 4)., a damper 505 attached at a first end to the base frame and at a second end to the base of the support frame, wherein the damper resists a downward force when the base frame is being lowered from the folded configuration, comprising at least one wheel located at the rear end of the base support (64), at least one wheel is raised above a bottom surface of the base of the support frame (fig. 1), a means for securing the base frame (110), the motor frame has a front end and a rear end, the first pivot line being along the front end of the motor frame, and the second pivot line being along the rear end of the motor frame (fig. 4).

Claims 17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watterson in view of Pasero and Fox.

Watterson and Pasero do not disclose a pivot spring located along the second pivot line, and wherein the pivot spring is loaded when the base frame is in the unfolded configuration.

Fox discloses a pivot spring located along the second pivot line, and wherein the pivot spring is loaded when the base frame is in the unfolded configuration (fig. 3).

It would have been obvious to use Fox's spring with Watterson and Pasero, as it is well known to use a spring, as taught by Fox, for aiding in the folding and unfolding of a treadmill.

Fox further discloses a hook to engage the support frame (56).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Glenn Richman  
Primary Examiner  
Art Unit 3764